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4 Plaintiff,
JAMES T. WALKER
5 in pro per

FILED

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 IN THE UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 CIVIL JURISDICTION

11 JAMES T. WALKER,

Case Number: C07-3100 BZ

12 Plaintiff,

PLAINTIFF'S OPPOSITION TO
DEFENDANT, C&H SUGAR'S
MOTION FOR CONTINUANCE
OF HEARING.

13 vs.

14 C & H SUGAR, et. al.,

15 Defendants.

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17 I.

18 FACTS

19 On February 1, 2008, Judge Zimmerman issued a briefing and scheduling order regarding
20 Defendant C&H Sugar's intent to file a motion to dismiss on subject matter grounds. The Court
21 ordered that C&H file its moving papers in support of the motion on or before February 20, 2008 in
22 advance of the April 2, 2008 hearing.

23 On or about February 15, 2008, C&H filed a motion to continue both the briefing schedule
24 and hearing dates.

25 C&H Sugar failed to mention any good cause in support of its motion.

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II.

A CONTINUANCE WOULD CAUSE UNWARRANTED DELAY AND PREJUDICE

3 Plaintiff has exercised diligence in this case. He has served his Rule 26 disclosures. He is
4 commencing discovery.

5 Defendant scheduled the motion to dismiss at the Case Management Conference and picked
6 the date the motion was to be heard.

7 Defendant has apparently changed its mind as to when to have the motion heard. Given
8 Defendant's choice of a hearing time, Defendant's request for a continuance is seen by Plaintiff as a
9 delaying tactic. Also, because the events giving rise to Plaintiff's claim took place over five years ago,
10 any delay at this point would more likely than not cause prejudice to Plaintiff in that witnesses may
11 become unavailable, and evidence may become so stale as to be useless to Plaintiff.

II.

CONCLUSION

14 Given the above, and because prejudice from delay is likely, the Court is asked to deny
15 Defendant's request for a continuance.

17 Date 2-27-08

James T Walker
James T. Walker
Plaintiff in *pro per*

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